

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 2402 of 1999

1. R. D. Dhole,
Inspector of Police,
at present posted at
Colaba Police Station.
2. V. R. Sattam,
Inspector of Police,
at present posted at
Mahim Police Station.
3. A.V. Ranade,
Inspector of Police,
at present posted at
SBI CID Branch H.
4. V.T. Gaikwad,
Assistant Commissioner
of Police,
at present posted at
C. B. C.I.D.
5. P. B. Bodade,
Inspector of Police,
at present posted at
General Branch, CID.
6. A. R. Shaikh,
Inspector of Police,
at present posted at
CB, CID.

7. A.K. Khaiser,
Inspector of Police,
At present posted at
Azad Maidan Police Station.
8. V.K. Kadam,
Inspector of Police,
At present posted at
Sewree Police Station.
9. B.K. Wagh,
Inspector of Police,
At present posted at
V.P.Road Police Station.
10. S.B. Jadhav,
Senior Inspector of Police,
At present posted at
V.P.Road Police Station.
11. A.S. Desai,
Senior Inspector of Police,
At present posted at
Sewree Police Station.
12. K.S. Kachare,
Inspector of Police,
At present posted at
Mumbra Police Station.
13. S.G. Chutke,
Inspector of Police,
At present posted at
Traffic Branch.
14. P.R. Satam,
Inspector of Police,
Array Sub Police Station.

15. P.V. Mathure,
Inspector of Police,
At present posted at
C.B. C.I.D.
16. S.M. Sabde,
Senior Inspector of Police,
At present posted at
C.B. C.I.D.
17. D.S. Pathare,
Inspector of Police,
At present posted at
Agripada Police Station.
18. P.S. Jain,
Police Sub-Inspector,
At present posted at
SB (1) CID.
19. Madhukar Kamble,
Assistant Commissioner
of Police, at present posted at
Matunga Division.
20. N.B. Ghag,
Inspector of Police,
At present posted at
Meghwadi Police Station.
21. K.L. Jadhav,
Inspector of Police,
At present posted at
D.B. Marg Police Station.
22. S.R. Patil,

Senior Inspector of Police,
At present posted at
Kandivali Police Station.

23. R.S. Sane,
Inspector of Police,
At present posted at
CID (Int) M.S.
24. S.L. Patil,
Inspector of Police,
At present posted at
D.G.Control.
25. Vilas Pandit,
Inspector of Police,
At present posted at
Dahisar Police Station.
26. R.R. Nanaware,
Assistant Commisioner of Police,
At present posted at
Bandra Railway Division.
27. Shankarrao Mahadik,
Inspector of Police,
At present posted at
Oshiwara Police Station.
28. Y.R. Tawde,
Inspector of Police,
At present posted at
Shivaji Parik Police Station.
29. J.A. Thakur,
Inspector of Police,
At present posted at
Traffic Institute.

30. M.K. Jagdale,
Retired Inspector of Police,
At present residing at
Bldg.No. 1, First Floor,
Room No. 21 and 22,
M.P. Mills Compound,
Tardeo, Mumbai-34. .. Petitioners.

VS.

1. The State of Maharashtra,
through Secretary, Home
Department, Government of
Maharashtra.
2. Commissioner of Police,
Mumbai. ... Respondents

Ms. Jyoti Chawan i/b. Swati Sawant for petitioner.
Ms. Molina Thakur AGP for respondents.

CORAM: SMT. R. P. DESAI
&
SHRI A. P. DESHPANDE JJ.

DATE: 10/8/2006

ORAL JUDGMENT (Per DESHPANDE J.)

1. The present petitioners who are 30 in number are or were in service in the Police Department of the State of Maharashtra . The petitioners completed their training in the Police Training College, Nasik on 1.7.1976 and were posted as Police Sub Inspectors in Bombay on 1st February 1977 as well as on 1st

July 1977. When the petitioners came to be posted at Bombay, they were granted pay scale of Rs.170-190-1-280-15-325 and were also paid Rs.50/- as Combined Cadre Order Special Pay (hereinafter referred to as 'Special Pay' .) The special pay of Rs.50/- was granted to the police officers working at Bombay, having regard to the nature of the duties which the officers were made to perform while they were stationed at Bombay.

2. The State Government accepted the recommendations made by Bhole Pay Commission and revised pay scales of the State Government employees by issuing a Government Resolution dated 17.4.1978. The Government Resolution was given retrospective effect as and from 1.4.1976. While granting pay revision of Rs.50/- which was earlier paid as special pay, it was merged in the basic pay. On account of revision of pay scale certain anomaly had arisen in regard to those police officers who came to be posted at Bombay, after 1st April 1976 but before the issuance of the Government Resolution dated 17.4.1978 revising the pay scales. The State Government

issued a resolution dated 17th November 1988. The said resolution aims to redress the grievance of such of the officers who came to be posted at Bombay in between the period 1.4.1976 to 17.4.1978, and who were not granted the benefit. According to the said Government Resolution the pay fixation of the officers covered by clause 4 of the Government Resolution ought to be made notionally with effect from 1.4.1976 and the benefits needs to be extended from the date on which they came to be posted at Bombay. It is reiterated that all the petitioners are police officers who came to be posted at Bombay in between the period commencing from 1.4.1976 to 17.4.1978 and were also granted special pay of Rs.50/- and thus they are covered by clause 4 of the Government Resolution. Despite repeated request made by the petitioners, after the issuance of the Government Resolution dated 7th November 1988, as the petitioners were not granted notional pay fixation the petitioners filed original application before the Maharashtra Administrative Tribunal. The Tribunal vide its judgment and order dated 21.12.1998 dismissed the application and

aggrieved thereby this writ petition has been filed.

3. Learned counsel for the petitioners has submitted that though the petitioners had relied upon clause 4 of the Government Resolution dated 7th November 1988 to claim the benefits, the Tribunal has erroneously only considered clause 2 of the Government Resolution where under the petitioners did not at all make any claim whatsoever. The learned counsel submits that the impugned judgment and order passed by the Tribunal suffers from non – application of mind. The learned AGP does not dispute that the judgment and order passed by the tribunal nowhere considers the effect of clause 4 of the Government Resolution. We have also perused the order passed by the Tribunal and we have no iota of doubt that the Tribunal has not all considered the entitlement of the petitioner on the basis of the provisions made in clause 4 of the Government Resolution. As the petitioners satisfy the conditions laid down by clause 4 we see merit in the petitioners claim that they are entitled to grant of notional pay fixation with effect from 1.4.1976, after taking

into consideration the special pay of Rs.50/- and the benefit need to be extended from the date the respective petitioners came to be posted at Bombay.

4. Learned counsel for the respondents has tried to urge that the petitioners are not granted the benefits stipulated for in clause 4 of the Government Resolution on account of the fact that it was the first posting of the petitioners at Bombay. It is also tried to be canvassed that only such of the officers who were posted at Bombay, on transfer, during their service tenure in between the two dates i.e. 1.4.1976 to 17.4.1978 are only granted the benefits. The said submission is totally devoid of merit, inasmuch as there is nothing in the Government Resolution which goes to exclude the benefit to such of the police officers who came to be posted at Bombay for the first time. All police officers who came to be posted at Bombay during the period from 1.4.1976 to 17.4.1978 and were granted special pay of Rs.50/-, would satisfy the criteria laid down in clause 4 and thus would be entitled to receive the benefits sought to be extended under the said clause. We

hold that the petitioners satisfy the criteria laid down in clause 4 of the Government Resolution.

5. In this view of the matter the petition deserves to be allowed and we allow the same. We direct the respondents to carry out the notional pay fixation, as mandated by clause 4 of the Government Resolution dated 7th November 1988 and pay the differences of arrears to the petitioners. We direct the respondents to complete the pay fixation and work out the arrears and pay the same to the petitioners within a period of 6 months from today. The Rule is made absolute in the above terms. No order as to costs.

(SHRI A. P. DESHPANDE J.) (SMT. R. P. DESAI J)